

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE NATIONAL PRESCRIPTION
OPIATE LITIGATION**

This document relates to:

Track Three Cases

**MDL No. 2804
Case No. 17-md-2804
Judge Dan Aaron Polster**

**DEFENDANTS' *DAUBERT* MOTION TO EXCLUDE THE OPINIONS OFFERED BY
CALEB ALEXANDER**

Defendants¹ hereby move for an order granting Defendants' *Daubert* Motion to Exclude the Opinions Offered by Caleb Alexander in their entirety under Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) and its progeny. As described more fully in the accompanying memorandum, Alexander's opinions do not fit the issues of this case, are unreliable, and would not be helpful to the jury. Accordingly, Alexander's opinions should be excluded in their entirety.

Dated: July 23, 2021

Respectfully submitted,

/s/ Scott D. Livingston

Robert M. Barnes

Scott D. Livingston

Joshua A. Kobrin

MARCUS & SHAPIRA LLP

35th Floor, One Oxford Centre 301 Grant Street
Pittsburgh, PA 15219

Phone: (412) 471-3490

Email: rbarnes@marcus-shapira.com

Email: livingston@marcus-shapira.com

Email: kobrin@marcus-shapira.com

¹ In this notice and the accompanying motion memorandum, Defendants include Giant Eagle, Inc. and HBC Service Company, Walmart Inc., CVS Indiana, L.L.C., CVS Rx Services, Inc., CVS Pharmacy, Inc., CVS TN Distribution, L.L.C., and Ohio CVS Stores, L.L.C., Rite Aid Hdqtrs. Corp., Rite Aid of Ohio, Inc., Rite Aid of Maryland, Inc., d/b/a Rite Aid Mid-Atlantic Customer Support Center and Eckerd Corp. d/b/a Rite Aid Liverpool Distribution Center, Walgreens Boots Alliance, Inc., Walgreen Co., and Walgreen Eastern Co., Inc. ("Defendants").

Attorneys for Giant Eagle and HBC Service Company

/s/ Tara A. Fumerton (consent)

Tara A. Fumerton
Tina M. Tabacchi
JONES DAY
77 West Wacker
Chicago, IL 60601
Phone: (312) 269-4335
Fax: (312) 782-8585
E-mail: tmtabacchi@jonesday.com
E-mail: tfumerton@jonesday.com

Attorneys for Walmart Inc.

/s/ Alexandra W. Miller (consent)

Alexandra W. Miller
Eric R. Delinsky
ZUCKERMAN SPAEDER LLP
1800 M Street, NW
Suite 1000
Washington, DC 20036
Phone: (202) 778-1800
Fax: (202) 822-8106
E-mail: smiller@zuckerman.com
E-mail: edelinsky@zuckerman.com

Attorneys for CVS Indiana, L.L.C., CVS Rx Services, Inc., CVS Pharmacy, Inc., CVS TN Distribution, L.L.C., and Ohio CVS Stores, L.L.C.

/s/ Kelly A. Moore (consent)

Kelly A. Moore
MORGAN, LEWIS & BOCKIUS LLP
101 Park Avenue
New York, NY 10178
Phone: (212) 309-6612
Fax: (212) 309-6001
E-mail: kelly.moore@morganlewis.com

/s/ Elisa P. McEnroe (consent)

MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103

Phone: (215) 963-5917

Email: elisa.mcenroe@morganlewis.com

Attorneys for Rite Aid Hdqtrs. Corp., Rite Aid of Ohio, Inc., Rite Aid of Maryland, Inc. d/b/a Rite Aid Mid-Atlantic Customer Support Center and Eckerd Corp. d/b/a Rite Aid Liverpool Distribution Center

/s/ Kaspar J. Stoffelmayr (consent)

Kaspar J. Stoffelmayr

Brian C. Swanson

Katherine M. Swift

Sharon Desh

Sten A. Jernudd

BARTLIT BECK LLP

54 West Hubbard Street

Chicago, Illinois 60654

Phone: (312) 494-4400

Fax: (312) 494-4440

E-mail: kaspar.stoffelmayr@bartlitbeck.com

E-mail: brian.swanson@bartlitbeck.com

E-mail: kate.swift@bartlitbeck.com

E-mail: sharon.desh@bartlitbeck.com

E-mail: sten.jernudd@bartlitbeck.com

/s/ Alex J. Harris (consent)

BARTLIT BECK LLP

1801 Wewatta Street, Suite 1200

Denver, Colorado 80202

Phone: (303) 592-3100

Fax: (303) 592-3140

E-mail: alex.harris@bartlitbeck.com

Attorneys for Walgreens Boots Alliance, Inc., Walgreen Co. and Walgreen Eastern Co., Inc.

.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that the foregoing document was served via the Court's ECF system to all counsel of record on July 23, 2021.

/s/ Scott D. Livingston